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ENHANCING LOCAL GOVERNMENT AUTHORITY IN LICENSING ARTISANAL MINING TO MITIGATE ILLEGAL TIN MINING IN BANGKA BELITUNG

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ABSTRACT; *The transfer of tin mining authority from the regional government to the central government in law number 3 of 2020 raises various problems. One of them is related to people's mining permits (IPR). In the latest regulation issued two years after the mineral and coal law, IPR was returned to local governments, but the lack of readiness of local governments caused IPR to remain ineffective, and illegal mining continued to mushroom in Bangka Belitung. This research was conducted using juridical-normative research methods and conceptual approaches. The results of this study show that the authority in the mining sector has been withdrawn to the central government, but IPR is the only permit still owned by the local government. Based on the experience of mine management since the reform era, IPR has never succeeded due to low legal culture, lack of government advocacy, and weak law enforcement. The conclusion of this study shows that the important role of local governments to take steps in re-optimizing IPR is fundamental. Local governments should maximize their IPR authority by immediately establishing WPRs, advocating for the establishment of community business entities to access IPR, encouraging partnerships with mining companies, and implementing consistent law enforcement.*
Keywords: *Tin Mine, Artisanal Mining Permit, Artisanal Mining, Authority*

ABSTRAK; Pengalihan kewenangan pertambangan timah dari pemerintah daerah ke pemerintah pusat dalam undang-undang nomor 3 tahun 2020 menimbulkan berbagai persoalan. Salah satunya terkait izin pertambangan rakyat (IPR). Dalam peraturan terbaru yang dikeluarkan dua tahun setelah undang-undang minerba, HKI dikembalikan kepada pemerintah daerah, namun kurangnya kesiapan pemerintah daerah menyebabkan HKI tetap tidak efektif, dan penambangan liar terus menjamur di Bangka Belitung. Penelitian ini dilakukan dengan menggunakan metode penelitian yuridis normatif dan pendekatan konseptual. Hasil penelitian ini menunjukkan bahwa kewenangan di bidang pertambangan telah ditarik ke pemerintah pusat, namun HKI menjadi satu-satunya izin yang masih dimiliki oleh pemerintah daerah. Berdasarkan

pengalaman pengelolaan tambang sejak era reformasi, HKI tidak pernah berhasil karena rendahnya budaya hukum, kurangnya advokasi pemerintah, dan lemahnya penegakan hukum. Kesimpulan penelitian ini menunjukkan bahwa peran penting pemerintah daerah untuk mengambil langkah optimalisasi kembali HKI merupakan hal yang mendasar. Pemerintah daerah harus memaksimalkan kewenangan HKI dengan segera membentuk WPR, mengadvokasi pembentukan badan usaha masyarakat untuk mengakses HKI, mendorong kemitraan dengan perusahaan pertambangan, dan menerapkan penegakan hukum yang konsisten.
Kata Kunci: Tambang Timah, IUP Rakyat, Tambang Rakyat, Kewenangan

INTRODUCTION

Indonesia is the second-largest exporter of tin in the world. Almost all of its production, around 98%, is sold internationally, while only 2% is used domestically.[1] The province of Bangka Belitung produces most of Indonesia's tin, contributing 99% of the country's total output.[2] In 2017, it produced approximately 76,400 tons of tin and has maintained an average production of 60,000 tons over the last decade. Indonesia's tin mining sector has undergone various governance changes since the end of colonial rule. After three Dutch-owned tin mining companies were nationalized in 1958 and amalgamated into the State Tin Company in 1968, the government assumed full control over tin mining for 31 years.[3] However, declining market prices led to a sharp decline in state revenues during the 1980s, affecting living standards, access to essential goods, inflation, and causing widespread political unrest until 1998.[4]

In 1999, the government restructured the tin mining sector, designating tin as an export commodity no longer subject to central government oversight. The government also decentralized authority, granting regional governments the power to regulate and manage mining activities within their respective jurisdictions. This shift aimed to align

[1] Derita Prapti Rahayu et al., "Countering Illegal Tin Mining with a Legal Formulation of Law Based on Local Wisdom in Bangka Belitung, Indonesia," *Cogent Social Sciences* 10, no. 1 (December 31, 2024): 2311053, https://doi.org/10.1080/23311886.2024.2311053.

[2] Ronaldo Irzon, "Penambangan timah di Indonesia: Sejarah, masa kini, dan prospeksi," *Jurnal Teknologi Mineral dan Batubara* 17, no. 3 (September 2021): 179–89, https://doi.org/10.30556/jtmb.Vol17.No3.2021.1183.

[3] Hartuti Purnaweni et al., "Politics and Business: The Policy on Tin Mining in Bangka," *International Journal of Business and Economic Affairs* 4, no. 3 (June 30, 2019), https://doi.org/10.24088/IJBEA-2019-43004.

[4] Edward Aspinall and Greg Fealy, eds., *Soeharto's New Order and Its Legacy: Essays in Honour of Harold Crouch*, 1st ed. (ANU Press, 2010), https://doi.org/10.22459/SNOL.08.2010.

governance structures with local needs and priorities, recognizing the diverse socioeconomic contexts across Indonesia's regions. However, the effectiveness of this decentralized approach depended on the capacity and capability of regional governments to assume their newfound responsibilities.

The government's decentralization policy in the early reform era aimed to reduce the centralization of authority prevalent during the New Order era while providing regions with the autonomy to develop their economic potential independently.[5] Following the enactment of Law No. 34 of 2002 on Regional Autonomy, regions were granted extensive authority to manage, regulate, and supervise mineral and coal mining. However, subsequent laws such as Law No. 4 of 2009, Law No. 23 of 2014, and Law No. 3 of 2020 gradually reduced regional authority and returned it to the central government. In 2020, Law No. 3 of 2020 Mineral and Coal Mining repealed the authority of regional governments to regulate mining within their jurisdictions, returning it to the central government.[6] This centralization of authority echoes the centralized governance of the New Order era. The government's policy shift carries potential consequences across various aspects, including the financial posture of regions heavily reliant on the tin economy in Bangka Belitung.

Illegal tin mining is prevalent in Bangka Belitung, and the government needs to address the challenges posed by illegal mining. Regional governments need to devise strategies to mitigate the adverse impacts of environmental degradation, ecosystem pollution, and social conflict, stemming from illegal mining activities.[7] This research aims to examine the position of regional governments in mining authority based on the latest regulations. The regulation by regional governments needs to be pursued by adapting to the prevalent issue of illegal tin mining still rampant in Bangka Belitung.

RESEARCH METHOD

[5] Awal Nopriyanto Bahasoan, Muhammad, and Marsudi, "Regional Autonomy and Poverty in Indonesia: A Literature Review," *East Asian Journal of Multidisciplinary Research* 2, no. 4 (April 27, 2023): 1613–24, https://doi.org/10.55927/eajmr.v2i4.3869.

[6] Dolot Alhasni Bakung et al., "Unraveling Authority of Coal Mining Management by the Regional Government and Its Implications for Regional Autonomy," *Indonesian Journal of Advocacy and Legal Services* 1, no. 2 (January 2, 2020): 223–42, https://doi.org/10.15294/ijals.v1i2.36069.

[7] Clifford Rechtschaffen et al., "Environmental Justice: Law, Policy, and Regulation," August 1, 2002.

This study employs a juridical-normative methodology to investigate the regulatory framework surrounding the authority of regional governments in managing mining activities. It adopts a conceptual approach to identify viable strategies essential for addressing the pervasive issue of illegal mining in Bangka Belitung.[8] The research conducts an exhaustive review of legal literature, including statutes, journals, and other relevant sources. The study aims to elucidate effective mechanisms that can be implemented to combat illegal mining practices in the region by analyzing the existing legal landscape and synthesizing insights from scholarly works. It examines the evolution of mining regulations and their enforcement to ascertain the efficacy of existing measures while identifying potential areas for improvement. The study highlights the urgency of adopting proactive strategies to mitigate the adverse impacts of illegal mining on the environment, local communities, and the economy of Bangka Belitung. The findings of this research endeavor to offer actionable insights and policy recommendations tailored to the unique challenges posed by illegal mining in the region.

RESULTS AND DISCUSSION

1. Economic Dependency and the Problematics of Illegal Tin Mining

The mining industry is a crucial sector for the Indonesian government as it generates foreign exchange, creates job opportunities, and serves as a source of Regional Original Revenue. The largest tin-producing region in Indonesia is the Bangka Belitung Islands Province, with an export value of US$93.4 million in 2019, indicating its longstanding economic dependence on the mining sector.[9] According to the Regional Government's data, approximately 30-40% of the region's revenue in Bangka Belitung comes from the tin mining sector, despite a downward trend in recent years.[10] However, this decrease is due to an increase in the regional budget and the development of other economic sectors, not a decline in mining activities. Tin has been the backbone of the economy for the people of Bangka Belitung for many years. The economic dependency on tin sector

[8] Derita Prapti Rahayu and Sulaiman, *Metode Penelitian Hukum* (Thafamedia, 2020).

[9] Ibrahim Ibrahim, Dwi Haryadi, and Nanang Wahyudin, "Already Dependent: A Dependency Analysis of Market Activity on Tin Mining in Bangka Belitung," ed. A. Zheltenkov, *E3S Web of Conferences* 91 (2019): 03004, https://doi.org/10.1051/e3sconf/20199103004.

[10] Andri Yanto et al., "IMPLIKASI RESENTRALISASI KEWENANGAN PERTAMBANGAN TIMAH TERHADAP POTENSI PENDAPATAN DAERAH DI BANGKA BELITUNG," *Jurnal Interpretasi Hukum* 4, no. 2 (2023): 344–57, https://doi.org/10.55637/juinhum.4.2.7756.344-357.

revenues in Bangka Belitung predates the era of reform and regional autonomy.[11] The main issue is the rampant illegal mining activities, which are carried out by the general public without clear permits, procedures, equipment, and safety standards.

The phenomenon of illegal mining in Bangka Belitung is linked to the issuance of various regulations, such as Perindag No. 443/2002, Permendag No. 07/M-DAG/PER/4/2005, and Minister of Trade Decree No. 285/MPP/KEP/6/2004, which have provided ample opportunities for the development of the tin management industry in the region.[12] Additionally, these regulations did not classify tin as a strategic commodity subject to export supervision. The prevalence of illegal mining highlights the urgent need for comprehensive regulatory reforms and effective enforcement mechanisms to address this issue while ensuring sustainable economic development in Bangka Belitung.[13] Various local regulations have been enacted to regulate the production and trade of tin. However, not all of these regulations can be effectively implemented. On the contrary, illegal tin exploitation is proliferating, disregarding the government's prepared regulations. Meanwhile, environmental damage and land degradation issues are escalating. Meanwhile, the sanctions related to mining permits and environmental protection, implemented thus far, encounter various difficulties.[14]

The dilemma arises where large-scale enforcement could impact the local economy, yet if left unchecked, illegal mining will continue to proliferate, accelerating the degradation of productive land and the environment in Bangka Belitung.[15] The applicability of the law is constantly constrained by the situation or environment in which it operates, resulting in a discrepancy between what should be (*das sollen*) and what occurs (*das sein*). Since the onset of the era of regional autonomy, the issues of illegal

[11] Indra Ambalika Syari et al., "Dampak Penambangan Timah Di Laut Terhadap Ekosistem Terumbu Karang Di Pulau Pemuja Dan Malang Duyung, Kabupaten Bangka Barat, Provinsi Kepulauan Bangka Belitung," *Journal of Tropical Marine Science* 5, no. 1 (May 3, 2022): 63–69, https://doi.org/10.33019/jour.trop.mar.sci.v5i1.2965.

[12] Irzon, "Penambangan timah di Indonesia."

[13] Erwiza Erman and Erwiza Erman, "Politik Protes Dan Etnisitas: Kasus Buruh Cina Di Tambang Timah Di Bangka-Belitung (1920-1950)" 36, no. 1 (January 16, 2017): 1–28, https://doi.org/10.14203/jmi.v36i1.625.

[14] Derita Prapti Rahayu et al., "ENVIRONMENTAL AND SOCIAL INJUSTICE: IMPACT AND SUSTAINABILITY OF SMALL SCALE TIN MINING UNDER INDONESIA'S NEW MINERAL AND COAL REGULATION," *Cepalo* 7, no. 2 (September 22, 2023): 129–42, https://doi.org/10.25041/cepalo.v7no2.3137.

[15] Rio Armanda Agustian et al., "Law Enforcement Problems of Illegal Tin Mining in Realizing Restorative Justice: A Study at the Bangka Resort Police," *Society* 9, no. 2 (December 31, 2021): 557–70, https://doi.org/10.33019/society.v9i2.305.

mining and environmental degradation have become more massive, with a significant increase in the number of illegal miners, primarily conducted by the local community. The government enacted Law No. 4 of 2009 concerning Minerals and Coal, which provided leeway for regional governments to grant mining permits, both conventional and Small-Scale Mining Permits (*Izin Pertambangan Rakyat*, IPR).[16] Unfortunately, this authority did not effectively function due to the complexity of the factors involved.

The regulations governing tin mining mechanisms in Bangka Belitung include Provincial Regulation No. 3 of 2004 concerning the Management of Public Mining Businesses, Provincial Regulation No. 7 of 2014 concerning Mineral Mining Management, and Provincial Regulation No. 1 of 2019 concerning the Management of Tin By-Products and Side Products in Bangka Belitung. These regulations are aligned with Law No. 4 of 2009 concerning Mineral and Coal Mining or the Mineral Mining Law. The provisions contained in various local regulations represent strategic efforts by the government to regulate and organize activities legally and reduce illegal tin mining.[17] Specifically, attention is paid to regulating the eradication of TI through the establishment of licensing mechanisms for communities to participate in tin exploitation sustainably and reduce environmental impacts and various other threats.

However, the current conditions indicate that a series of regulations set by local governments, particularly regarding mining business permits, have not been implemented as ideally intended. For example, regulations regarding the prohibition of heavy mechanical equipment use in artisanal mining. Observations.

2. Authority of People's Mining Permits by Local Governments in Recent Regulation

The complexity of interests and government efforts to improve the legal framework of mining in Indonesia has culminated in the enactment of Law Number 3 of 2020

[16] Derita Prapti Rahayu and Faisal Faisal, "Eksistensi Pertambangan Rakyat Pasca Pemberlakuan Perubahan Undang-Undang tentang Pertambangan Mineral dan Batubara," *Jurnal Pembangunan Hukum Indonesia* 3, no. 3 (September 17, 2021): 337–53, https://doi.org/10.14710/jphi.v3i3.337-353.

[17] Ahmad Redi, "Responsive Law Enforcement in Preventing and Eradicating Illegal Mining in Indonesia," *Journal of Law and Sustainable Development* 11, no. 8 (September 29, 2023): e1436–e1436, https://doi.org/10.55908/sdgs.v11i8.1436.

amending Law Number 4 of 2009 concerning Minerals and Coal Mining.[18] The key point of this amendment is the revocation of regional authority in granting mining permits, which was previously part of the 'autonomy package'. This revocation is based on the need for centralized supervision and management of mining activities by the state, as mandated in Article 33 Paragraph (2) of the 1945 Constitution. Specifically, Article 35 Paragraph (1) stipulates that mining activities are carried out based on Business Licensing from the Central Government.

However, Article 35 Paragraph (4) also provides flexibility, stating that the central government may delegate the authority to grant business permits to provincial governments, by the provisions of the laws and regulations.[19] In its development, the government subsequently established implementing regulations in the form of Presidential Regulation Number 55 of 2022 Concerning the Delegation of Business Licensing in the Field of Mineral and Coal Mining, which was ratified on April 11, 2022, by President Joko Widodo. Article 2 of this regulation explains that the delegation includes the issuance of standard certificates and permits, guidance on the implementation of delegated business permits, and supervision of the implementation of delegated business permits.

The provision in Article 2 Paragraph (3) of Presidential Regulation 55 of 2022 limits the permits delegated to provincial governments to 12 forms of permits, all of which are limited in scope. In total, there are seven main types of permits in the mining sector, with the distribution as follows:

Table 1. Distribution of licenses in Law No. 3 of 2020

Actor	Mineral and Coal Mining Licensing Forms
Central Government	Nonmetallic Mineral Mining Business License
	Rock Mining Business License
	Rock Mining License
	Transport and Sales License
	Mining Services Business License
	Mining Business License for Sales
Local Government (Province)	People's Mining License

[18] Suwari Akhmaddhian et al., "The Strengthening Government Policies on Mineral and Coal Mining to Achieve Environmental Sustainability in Indonesia, Africa and Germany," *BESTUUR* 11, no. 1 (August) (May 2, 2023): 95, https://doi.org/10.20961/bestuur.v11i1.71279.

[19] Yanto et al., "IMPLIKASI RESENTRALISASI KEWENANGAN PERTAMBANGAN TIMAH TERHADAP POTENSI PENDAPATAN DAERAH DI BANGKA BELITUNG."

Source: Law No. 3 of 2020

The issuance of standard certificates involves various activities that are essential for the planning and consultation services of the mining sector. These activities include general investigation, exploration, feasibility studies, mining construction, and transportation, as well as environmental management, reclamation, and post-mining operations.[20] Permits consist of various licenses, such as Mining Business Licenses (IUP) for Domestic Investment (PMDN), Rock Mining Permits (SIPB), People's Mining Permits (IPR), and permits for the transportation and sale of different mineral and non-mineral commodities. With the implementation of Presidential Regulation 55 of 2022, the authority for small-scale mining permits, particularly People's Mining Permits (IPR), has been officially reinstated to the jurisdiction of regional governments.

The return of authority for issuing People's Mining Permits (IPR) to regional governments reinstates a spectrum of challenges and issues stemming from deficiencies in small-scale mining permits in Bangka Belitung.[21] The persistent issue remains how to optimize IPR as a regulatory instrument to curb the proliferation of illegal mining practices across the archipelago.

The phenomenon of illegal tin mining in the Bangka Belitung Islands highlights the fact that legal norms governing public mining management, particularly in terms of small-scale mining permits, are not functioning as intended.[22] The difficulty in enforcement stems from the low legal culture compounded by various social, economic, educational, and knowledge factors within the community, alongside the need for policy evaluations by regional governments.[23] Nevertheless, through proper regulations and guidance, the legal culture can be transformed and directed significantly to ensure the effective implementation of regulations. This transformation is crucial to address the

[20] Ayuk Suryaningsih, "Legal Review of Government Policy in Granting Coal, Gold and Nickel Mining Permits in Indonesia," *QISTINA: Jurnal Multidisiplin Indonesia* 2, no. 1 (June 1, 2023): 740–49, https://doi.org/10.57235/qistina.v2i1.466.

[21] D Haryadi, Ibrahim, and Darwance, "Politics of Environmental Law in Relation to Mining in Bangka Belitung: A Mapping," *IOP Conference Series: Earth and Environmental Science* 599, no. 1 (November 1, 2020): 012087, https://doi.org/10.1088/1755-1315/599/1/012087.

[22] D Haryadi, Ibrahim, and Darwance, "Environmental Improvement Policy through the Obligation of Post-Tin Mining Reclamation in the Islands of Bangka Belitung," *IOP Conference Series: Earth and Environmental Science* 1175, no. 1 (May 1, 2023): 012021, https://doi.org/10.1088/1755-1315/1175/1/012021.

[23] Rahayu and Faisal, "Eksistensi Pertambangan Rakyat Pasca Pemberlakuan Perubahan Undang-Undang tentang Pertambangan Mineral dan Batubara."

challenges associated with illegal mining activities and to promote sustainable mining practices in the region.

To ensure the effective implementation of People's Mining Permits (IPR), the government needs to establish at least four fundamental strategies. Firstly, advocating for community engagement in the IPR process by encouraging the formation of entities such as limited liability companies (CV), cooperatives, or other legal entities competent to apply for mining business permits.[24] Comprehensive education and socialization efforts among communities are crucial in this regard. Secondly, the government should consider establishing regional enterprises specializing in the mining sector to assist communities in accessing people's mining permits. Thirdly, fostering partnerships between communities and mining companies holding mining business permits, such as PT. Timah Tbk can be instrumental in promoting legal mining practices and enhancing community involvement in the sector. Fourthly, ensuring comprehensive, competent, and consistent law enforcement efforts is essential. Law enforcement should focus on preventing illegal mining activities and encouraging a transition to legal mining through the IPR system.

Furthermore, the government should update Regional Regulation No. 3 of 2020 on Coastal and Small Islands Zoning Plans (RZWP3K) by incorporating maps of people's mining areas (WPR) and accommodating the interests of regional enterprises in mining management. These strategies need to be formulated and implemented, considering the projection that tin mining in Bangka Belitung will continue for the next 20-30 years. With proper management and systematic oversight, mining can provide benefits while preventing environmental damage and social conflicts.

CONCLUSION

The legal politics of natural resource management in Indonesia have been guided by Article 33 paragraph (2) and paragraph (3) of the 1945 Constitution, which grants the government absolute control over the earth, water, and natural resources, including the authority to regulate licensing patterns through laws and regulations. In the reform era, the concept of regional autonomy emerged, leading to the establishment of Law No. 4 of 2009, which gave local governments the flexibility to regulate and manage mining

[24] Novi Yanti Sandra Tutuarima, Deassy Jacomina Anthoneta Hehanussa, and Margie Gladies Sopacua, "Penegakan Hukum Pidana Terhadap Kegiataan Pertambangan Tanpa Izin," *TATOHI: Jurnal Ilmu Hukum* 1, no. 12 (February 28, 2022): 1263–69, https://doi.org/10.47268/tatohi.v1i12.882.

permits. In Bangka Belitung, this authority has been embraced through the issuance of regulations governing tin mining governance. However, the implementation of Law No. 2020, which recalled the licensing authority to the central government, was problematic. Presidential Regulation Number 55 of 2022 has now delegated part of the licensing authority to local governments, specifically for People's Mining Permits (IPR). Despite this grant of authority, the Bangka Belitung government must still address the problem of illegal tin mining. The problem of illegal mining in Bangka Belitung can be attributed to three main causes: the low legal culture of the mining community, the complicated licensing regulations, and suboptimal law enforcement. These factors prevent the optimal implementation of People's Mining Permits (IPR). The return of licensing authority to the regions requires a creative approach to optimize the use of IPR. One alternative solution is the use of the rakyat mining permit approach and the partnership approach, taking into account the factors causing inefficiency.

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